

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

OWNER: ADF Properties LLC
15007 Woodinville Redmond Rd., Ste. A
Woodinville, WA 98072

APPLICANT/CONTACT: Jon Graves Architects & Planners PLLC
3110 Ruston Way, Ste. D
Tacoma, WA 98402

Sunset Highlands Mixed Use Site Approval
File No.: LUA 08-028, SA-H, CU-A, ECF

LOCATION: 4409 ME Sunset Blvd.

SUMMARY OF REQUEST: Applicant requested Site Plan Review and Conditional Use Permit approval for the construction of a 4-story, 55-foot tall mixed-use building on a 35,593 square foot site.

SUMMARY OF ACTION: Development Services Recommendation: Approve with conditions

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on May 27, 2008

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the June 3, 2008 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, June 3, 2008, at 9:01 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, proof of posting, proof of publication and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Neighborhood Map
<u>Exhibit No. 3:</u> Zoning Map	<u>Exhibit No. 4:</u> Site Plan
<u>Exhibit No. 5:</u> North and East Elevations	<u>Exhibit No. 6:</u> South and West Elevations

<u>Exhibit No. 7:</u> First and Second Floor Plan	<u>Exhibit No. 8:</u> Third and Fourth Floor Plan
<u>Exhibit No. 9:</u> Utility Plan	<u>Exhibit No. 10:</u> Conceptual Landscape/Tree Retention Plan
<u>Exhibit No. 11:</u> Aerial Photograph	

The hearing opened with a presentation of the staff report by Rocale Timmons, Associate Planner, Development Services, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The project site is on the south side of NE Sunset Boulevard, west of Duvall Avenue NE and east of Union Avenue NE. The surrounding properties area all zoned Residential Multi-Family (RMF) or Commercial Arterial. The applicant is proposing a 4-story, 55-foot tall mixed-use building. The project would result in 21 multi-family residential dwelling unit with approximately 2200 square feet of commercial space. The proposal does comply with the goals and policies established within the Commercial Corridor on the Comprehensive Plan Land Use Map.

The applicant has requested a reduced front yard setback to 1-foot, 2 and a half inches from the property line. Applicant has proposed uses to enhance the setback area and staff does support the proposed reduction in the front yard setback. There are no interior side or rear yard setbacks. The applicant further is requesting a reduced landscaping strip, a 15-foot landscape strip is required along the front property line, NE Sunset Blvd, the applicant has proposed to reduce that down to as little as zero feet along portions of the street frontage. Staff again supported the reduced on-site landscaping since there are other perimeter landscaping that offsets the landscape buffer. The landscaping would only act as a buffer to abutting properties. A detailed landscape plan would be submitted by the applicant prior to the issuance of the building permit.

The City's parking landscaping regulations have additional landscaping requirements for surface parking lots in the amount of 15 square feet per parking space. Based on 21 surface parking stalls, 315 square feet of landscaping would be required, the conceptual landscape plan does comply with this requirement. All parking spaces do comply with the dimensional requirements of the parking regulation. There is a one-way circulation throughout the project site via a 24-foot wide internal driveway. Four feet of the 24-foot width is a pedestrian walkway surrounding the building.

The Examiner questioned the traffic noise of the residential units if they are only a foot and a half from the street, Sunset is a fairly heavily trafficked arterial.

Ms. Timmons stated that the units are setback due to balconies or decks by approximately 10-feet or so.

The proposed building would be located in the center of the site, surface parking areas would be located along the east and west portions of the building. Landscaping would be located around the perimeter of the site and within the surface parking lots. A total of 58 parking stalls are proposed, 21 would be located in the surface parking lot with 11 being dedicated to commercial use and the remaining 37 stalls would be located in the first floor of the building. The structure parking would be accessed through 21 separate garage doors off NE Sunset Blvd via two new 30-foot wide curb cuts. A restrictive covenant would be required to assign tandem parking spaces to the exclusive use of specific dwelling units.

The proposed building would result in a lot coverage of 28% and the density for the site would result in about 26 dwelling units per net acre, which is within the permitted range. There is a stream located on the southeast portion of the site.

There are four protected trees onsite of which three are proposed to remain. There is a Class 4 stream located on the southeast portion of the site, which requires a 35-foot buffer. The applicant is proposing to reduce the buffer to 25-feet. Development Services Director approved the reduction in buffer.

The highest point of the building would house the stair tower on the south elevation. The residential units would be located on the upper three levels with seven units on each floor. The commercial space would be located within the north portion of the building on the ground floor facing NE Sunset Blvd. Approximately 1,500 square feet would be designated to specialty retail, and the remaining 700 square feet would be a restaurant.

The Environmental Review Committee issued a Determination of Non-Significance – Mitigated, which included 6 mitigation measures. No appeals were filed.

The applicant is further required to provide a pedestrian connection from the entry of the building to the street and sidewalk. A 6-foot high wood fence would be required along the length of the west property line with a gate for the pedestrian connection. This would provide privacy to the property to the north.

Since the approval of the parking spaces, the ratio designations have changed, instead of 11 spaces now 13 spaces have been designated for commercial use to meet the parking requirements. A revised parking plan must be submitted.

The proposed building is appropriate for the site and would be architecturally compatible with the existing neighborhood. The main entrances for the commercial space are located along NE Sunset Blvd. The main entrance to the apartment units would be via the internal elevator.

The site is served by the City of Renton for all utilities. Fire, Police and Parks staff have indicated that the existing facilities are adequate to accommodate the subject proposal.

The project is subject to the District B Design Guidelines and the proposal does comply with the intent of the design regulations where they are applicable.

The proposal complies with the goals, policies and standards established within the Commercial Corridor Land Use designation as well as the Commercial Arterial Zone.

The height of the building does exceed the allowed height of the zone by five feet and four inches. This increase in height is to accommodate the elevator shaft and stair tower for the building. No other portion of the building exceeds the 50-foot height limit.

Brett Lindsay, 3110 Ruston Way, Ste. D, Tacoma, WA 98402 stated that he represents the applicant Jon Graves Architects & Planners. The central stair tower will always be open to the public, there are two doors on the east and west sides that have direct access to it. That will most likely be the primary entrance to the building. Access will be at the doors and not at the stair tower.

There is a 5- to 6-foot buffer between the curb and the beginning of the sidewalk. The sidewalk varies in width because of the indents in the building. It is approximately 10-feet to the corners of the building that get closest to the road. There also are three street trees that are centered with the balconies to add another layer of buffer. It seemed to them that a presence on Sunset Blvd would be a positive move.

He asked if the “wood” fence could be made of concrete that looks like a wood fence. It is better maintenance and looks very nice.

The Examiner stated that the issue would become cinder block versus something more appealing, he may condition it so that staff would have total authority over approving something that is not wood but that emulates wood.

Kayren Kittrick, Development Services stated that water and sewer are available, the storm drain is fine, they will be taking a close look at the amount of plantings that are being put in. There are two storm ponds at the southerly corners of the property. They currently use a controlled system to dump stormwater into Honey Creek. The amount of plantings being proposed will have to be watched, there are specific plants that are welcome and some that are not due to their overgrowth potential.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:39 am.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Jon Graves Architects & Planners PLLC, filed requests for a Site Plan review together with Conditional Use Permits to allow a 4-story mixed use building in the CA (Commercial Arterial) Zone.
2. The Environmental Review Committee (ERC), the City's responsible official issued a Determination of Non-Significance - Mitigated (DNS-M).
3. The subject proposal was reviewed by all departments with an interest in the matter.
4. The subject site is located at 4409 Sunset Boulevard NE. The subject site is located on the south side of Sunset between Whitman Court NE on the west and Anacortes Avenue NE on the east.
5. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of commercial uses, but does not mandate such development without consideration of other policies of the Plan.
6. The subject site was annexed to the City with the adoption of Ordinance 2408 enacted in May 1968.
7. The subject site is approximately 35,593 square feet or 0.817 acres. The subject site is trapezoidal with its north property line defined by the alignment of Sunset Boulevard which runs toward the northeast in this location. The subject site is approximately 160 feet wide and varies between 170 feet deep (west) and 250 feet deep on the east. The parcel has approximately 190 feet of frontage along Sunset.
8. Honey Creek runs across the subject site in its southeast corner. This creek is a Class 4 stream, which generally requires a 35-foot buffer. The applicant has been provided with an administrative decision that the buffer can be reduced to no less than 25 feet if the creek and buffer are enhanced. This is a critical area and both the creek and its buffer will be protected and preserved. The buffer reduction would total approximately 1,376 square feet.
9. The tree survey found four protected trees and the applicant proposes retaining three of those trees.

10. The applicant proposes erecting a four-story, 55 foot 4-inch tall building on the subject site. The structure would contain retail space on the first floor and residential units on the upper three-stories. The building would have approximately 40,083 square feet over the four stories. There would be approximately 2,209 square feet of retail space divided into separate storefronts including a restaurant of approximately 700 square feet. There would be 21 multiple family units totaling approximately 30,795 square feet. There would be 3 one-bedroom units and 18 two-bedroom units.
11. The CA zone permits lot coverage of 65 percent whereas the applicant proposes only 28 percent lot coverage. Parking allotments are based on a combination of uses and parking configuration. The residential component requires 45 stalls based on the mix of single alignment parking and tandem parking. The proposed restaurant space would require 7 stalls and the remaining commercial spaces an additional 6 stalls. Total parking would be 58 stalls with 21 surface (outdoor) parking stalls and 37 stalls inside the garage on the first level. Since the project was originally reviewed and a parking modification was issued the applicant changed the ratio of commercial uses. Staff found that the project did not provide sufficient parking for the commercial portion of the proposal and required two additional parking spaces dedicated to commercial uses.
12. As noted, the subject site is currently zoned CA which permits commercial and mixed use development with approval of a Conditional Use Permit. Additionally, the CA Zone limits height to 50 feet and a conditional use permit is required for any building taller than 50 feet. In this case the tallest portion of the building is proposed to be 55 feet 4 inches tall. The additional height was due to the elevator and stairwell towers.
13. The CA Zone requires no rear yard or side yard setbacks. This parcel in the CA Zone requires 15 feet of front yard landscaping because it is across from the residential, RM-F Zone. The zone requires a 10-foot setback from Sunset that in this case is required to be increased to 15 feet because 15 feet of landscaping is required across from residential zone and uses on the other side of Sunset. The Site Plan review process may be used to reduce both requirements to Zero feet. The applicant has proposed reducing the 15 feet of landscaping required along Sunset Boulevard to as little as Zero (0) feet except near the driveways. The applicant has proposed street trees at 30 feet on center. This would result in three trees planted in front of the building with two trees near the east and west margins of the site.
14. Staff has indicated that the applicant's reduced landscaping along the street frontage is reasonable since it has provided adequate other on-site and perimeter landscaping. The perimeter, east and west, require five feet of landscaping along the parking areas as well as 1 tree per 6 stalls and 5 shrubs per 100 feet of landscaping. There will be additional landscaping along the southeast and southwest corners of the parcel, near and adjacent to the stream buffer.
15. The applicant has proposed one way circulation into, around and out of the site via 30 foot driveways and parking aisles along the east and west sides of the parcel. The parking aisle will also provide pedestrian paths.
16. The building will have approximately 75% retail uses along its front facade. As part of the Conditional Use Permit, the applicant has proposed that the majority of the building, the additional three-stories as well as large portions of the first level, and the garage, serve residential purposes.
17. Staff reports that the applicant will use high quality vinyl siding as well as masonry block units. There will be balconies along the front facade as well as other facades. The front of the building will have pitched roof elements while the remainder of the building on its sides and rear will have flat roof elements.

18. The subject site is located within the Renton School District. The residential portion of the project is expected to generate additional school age children. These students would be spread across the grades and would be assigned on a space available basis.
19. The refuse and recycling area will be located to the rear of the building but specific location will be determined by the waste handler.
20. The density for the proposal would be 25.95 dwelling units per acre after subtracting sensitive areas. The CA zone permits a minimum of 10 units per acre up to 60 units per acre when a mixed-use building is proposed.
21. The proposal is located in an area subject to the District B Design Guidelines. Staff has generally determined that the proposal meets those guidelines applicable to a single building containing a mix of commercial and residential uses. A number of criteria overlap the general criteria of both the Site Plan Ordinance and the Conditional Use Permit.
22. The development will increase traffic with 21 new residential units and the new retail and restaurant facades.
23. McDonalds restaurant is located immediately east of the subject site.

CONCLUSIONS:

Conditional Use Permits

1. The applicant for a Conditional Use Permit must demonstrate that the use is in the public interest, will not impair the health, safety or welfare of the general public and is in compliance with the criteria found in Section 4-31-36 (C), which provides in part that:
 - a. The proposal generally conforms with the Comprehensive Plan;
 - b. There is a general community need for the proposed use at the proposed location;
 - c. There will be no undue impacts on adjacent property;
 - d. The proposed use is compatible in scale with the adjacent residential uses, if any;
 - e. Parking, unless otherwise permitted, will not occur in the required yards;
 - f. Traffic and pedestrian circulation will be safe and adequate for the proposed project;
 - g. Noise, light and glare will not cause an adverse affect on neighboring property;
 - h. Landscaping shall be sufficient to buffer the use from rights-of-way and neighboring property where appropriate; and
 - i. Adequate public services are available to serve the proposal.

In this case, the applicant has actually requested two conditional use permits. One Conditional Use Permit was to allow a building taller than the normally permitted 50 feet. The applicant proposed a

building of 55 feet 4 inches or 5 feet 4 inches taller than permitted. The second Conditional Use Permit was requested to allow a mixed-use, that is a building that contains both commercial and residential uses, in one building. The Commercial Arterial Zone does not normally permit a mixed-use structure. The requested conditional use permits do not appear justified.

2. First, it might be important to note that the Zoning Code has outright permitted uses - those uses that have been determined to be fully appropriate in a particular zone. The Code then has certain uses that may be permitted in a zone but that are not outright permitted. Such permits are discretionary and the applicant has to justify why the proposed use is appropriate. If all uses that are subject to Conditional Use review were appropriate then they would be permitted outright subject to other criteria such as bulk, setbacks or similar. Proposals subject to Conditional Use approval must satisfy specific criteria enumerated for that use and they may be denied if inappropriate to their neighborhood or their site.
3. There are a number of issues involved in this review as the building not only is taller than permitted but also contains both commercial and residential components in one building and such combined elements are normally not permitted in the CA Zone. What might be appropriate for a commercial building might not be appropriate for a residential building or a building that contains residential units. Residential living has certain amenities associated with it. Quietude might be an attribute or amenity cherished or prized in a residential setting that might be unimportant or less important in a commercial, office or retail building. Similarly, proximity to certain services might be important in a residential complex but too close a proximity to automotive dependent uses or drive up restaurants might tax residents. Being located next to a business catering to drive-up customers might not create the most appropriate living situation. Drive-up windows and the constant opening and closing of car doors and engine startups could be an issue. Quietude might be an attribute that some would trade away for more urban hustle and bustle. Then again, being in proximity to certain uses could tend to make a living situation less desirable. While some might consider a less desirable residential environment unfortunate, it could make the residential complex more affordable since it might be less desirable. More affordable housing might be appropriate even if less aesthetic. Some might suggest that the market will determine whether such a mix of uses is appropriate or not. Others might say that the job of "Land Use Planning" is intended to create more desirable juxtapositions of uses and avoid certain juxtapositions so that irritants or worse that lead to eventual blight are not created.
4. In reviewing this proposal, some criteria or overall issues actually overlap in reviewing a Site Plan and in reviewing the two Conditional Use permits. The proposed plan is crowded and inappropriately located after all things are considered. Staff has expanded the buildable area of the parcel by reducing the critical areas buffer along Honey Creek from 35 feet to 25 feet and then further crafted more buildable space by recommending that the 15 feet of front yard landscaping and building setback from Sunset Boulevard, a heavily traveled arterial, be reduced to between Zero feet and approximately one to two feet.
5. The Comprehensive Plan designates this area for commercial uses. It even allows mixed uses but only after determining that the site and design are appropriate under Conditional Use Criteria. But that does not necessarily mean all parcels located along Sunset Boulevard are suitable for residential purposes whether as standalone residential uses or in a mixed use development as now proposed. The subject site is a relatively small, narrow parcel further constrained by Honey Creek, which is located in the southeast corner of the site. In order to increase the developable portion of the subject site staff approved a reduction in the buffer between the development and the Honey Creek. While this is permissible the buffer reduction itself was not sufficient to create an adequate building site. Therefore, the applicant has also sought to reduce the required 15 foot landscape setback between the building and the public right-of-way, the heavy arterial Sunset Boulevard, to Zero feet. Such a reduction, while also

permissible is inappropriate for a residential building. A similar reduction for a purely commercial building might be appropriate in that it would pull retail facades up to the sidewalk and provide enhanced commercial exposure. It might also be appropriate in that the noise associated with a heavily traveled arterial street might not have much impact on an office building or retail trades. If the creek buffer reduction and the very reduced setback were not enough, the applicant also has sought an increase in the building's height also with a Conditional Use Permit request. While the increase is very modest, it is just one more factor that demonstrates that this lot is too constrained for the proposed building.

6. There can be fair debate as to whether there is a community need for this mixed use building in this location. Yes it creates additional housing opportunities and due to its proximity to Sunset and adjacent to a McDonalds restaurant, it might generate more affordable housing. It probably also helps create additional demand for commercial services by its residential population. But from a land use planning point of view, is this a suitable location for residential units and are they well-served by being subject to a very limited setback from Sunset and from a McDonalds restaurant? The answer to that seems that this is not an appropriate use of the subject site. It appears that this would be suitable for office and retail uses but not as a cover to create a mixed-use development.
7. It does not appear that the development of the site as proposed would have an adverse impact on surrounding uses although residents might complain about nuisance activities in the adjacent McDonalds parking lot including voices, general noise and hubbub to engine startups as well as cooking odors.
8. The building would be only slightly taller than the permitted 50 feet so ultimately it probably would be compatible with surrounding residential uses.
9. Parking is permitted in the side yards of this project.
10. It appears that traffic and pedestrian circulation are acceptable.
11. The construction of the proposal would introduce noise but not at an unusual level and after occupancy, there should not be any unusual noise generators.
12. The reduction of the 10-foot front yard to near Zero and the reduction of the required 15 feet of landscaping along Sunset to similarly near Zero does not provide sufficient buffer from the rights-of-way. One could also argue that a mere five feet of perimeter landscaping between this use and McDonalds is also inadequate when residential units will look out over a parking lot.
13. There are adequate public services to serve the proposed use.
14. In summary, there might be a belief that locating buildings along suburban streets provides an edgier, urban feeling but this office is not convinced that this is the direction that the City desires to take outside of its downtown urban core. In the past, the City Council has addressed issues of setbacks and landscaping those setbacks along NE 4th Street and Sunset Boulevard NE. Both of those arterials are heavily traveled gateway streets into the City from the north and east. While City Comprehensive Plan policies and Zoning do suggest that retail uses more or less hug the street or, at least, avoid parking between the use and the street, this has generally been practiced for commercial uses and even then they usually observe a front yard setback. A similar hugging of the street by residential uses has also been utilized in true urban core areas. But City Code generally wants the more suburban streets to provide front yard setbacks and landscaping along its arterial streets, hence the requirement for this lot to

provide a 10-foot setback and 15 feet of landscaping along Sunset. Pulling residential uses right up to the street may not create the most enjoyable residential experience when the street has higher speed limits. While clearly reducing the setback provides the applicant more useable land that can provide greater building footprint and density it might not be the best tradeoff if it creates a less desirable residential situation. There is nothing exceptionally commendable about the building or its façade that would warrant the reduction of the front yard or landscape setback. So that while the CA zone might allow an office building to be constructed right up to sidewalk where the ground floor and upper floors are offices that are not necessarily adversely affected by traffic noise that might not be the case for residential uses. The fact that CA zoning permits mixed-use development does not mean it should be situated as close to the street as proposed in this application. This proposal would result in residential uses being substantially closer to the street than would be aesthetically appropriate. Obviously, this decision will generate additional discussion as what is appropriate in a setting such as the current lot. That might help distill the ideas about what is appropriate inside and outside the downtown core of the City. Both Conditional Use Permits are inappropriate for a mixed-use building and are denied.

Site Plan

2. The site plan ordinance provides a number of specific criteria for reviewing a site plan. Those criteria are generally represented in part by the following enumeration:
 - a. Conformance with the Comprehensive Plan;
 - b. Conformance with the Building and Zoning Codes;
 - c. Mitigation of impacts on surrounding properties and uses;
 - d. Mitigation of the impacts of the proposal on the subject site itself;
 - e. Conservation of property values;
 - f. Provision for safe and efficient vehicle and pedestrian circulation;
 - g. Provision of adequate light and air;
 - h. Adequacy of public services to accommodate the proposed use;

The proposed use does not satisfy these and other particulars of the ordinance.

3. As discussed above, commercial and some residential uses are suggested for this area under the Comprehensive Plan. But the plan generally reserves it for commercial corridor uses, that is, commercial, office and retail uses. Usurping commercially zoned property for residential uses is not always appropriate. That does also not mean that the combining of those uses in a mixed use development adjacent to Sunset Boulevard and without some buffer or setback relief is appropriate. Residential uses should be better screened from such a heavy traffic arterial and reducing the setback and landscaping to near Zero is inappropriate. The few street trees proposed and the landscaping at the extreme edges of the driveway are insufficient to make this proposal compatible with the various residential elements of the comprehensive plan.
4. The proposal does not strictly conform to the Zoning Code. The applicant has actually sought two conditional use permits to allow a taller than permitted building and a reduced setback and landscape

area in the front yard. As noted above, those permits did not seem appropriate so the use, strictly speaking does not meet this criterion.

5. The use should not have an adverse impact on surrounding uses other than as noted in the discussions above where the adjacent McDonalds use could create a nuisance for residents. The discussion above on the quality of the residential amenities also shows that the proposal does not mitigate its impacts on the subject site or its future residents.
6. Redevelopment of the site will add to the tax base of the City. Redevelopment of the subject site might conserve property values but if the residential component is inappropriately located too close to the street, it might not be as successful as a building dedicated to commercial and retail purposes.
7. Circulation appears reasonable and safe.
8. There appear to be reasonable access to light and air, although, the quality of the air could be compromised by the residential component's proximity to Sunset Boulevard.
9. Domestic water and sewer are available.

DECISION:

The Conditional Use Permit to permit a 55 foot 4 inch building is denied.

The Conditional Use Permit to permit a mixed-use commercial and residential building is denied.

The Site Plan is not approved.

ORDERED THIS 24th day of June 2008.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 24th day of June 2008 to the following:

Mayor Denis Law
Jay Covington, Chief Administrative Officer
Julia Medzegian, Council Liaison
Marty Wine, Assistant CAO
Gregg Zimmerman, PBPA Administrator
Alex Pietsch, Economic Development
Jennifer Henning, Development Services
Stacy Tucker, Development Services

Dave Pargas, Fire
Larry Meckling, Building Official
Planning Commission
Transportation Division
Utilities Division
Neil Watts, Development Services
Janet Conklin, Development Services
Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100 of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., July 8, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., July 8, 2008.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.